

Message Text

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ACTION OPIC-12

INFO OCT-01 EUR-25 ADP-00 EB-11 TRSE-00 L-03 XMB-07 ABF-01

COME-00 OMB-01 SCI-06 NSF-04 AID-20 NSC-10 CIEP-02

SS-15 STR-08 CEA-02 RSR-01 /129 W

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R 015 Z MAY 73

FM AMEMBASSY BELGRADE

TO SECSTATE WASHDC 6178

INFO AMCONSUL ZAGREB

UNCLAS BELGRADE 2083

E. O. 11652: N/ A

TAGS: EFIN YO

SUBJ: NEW JOINT VENTURE LAW

REF BELGRADE 2018

1. FINANCE SECRETARIAT COUNSELOR JELIC INFORMED ECONOMIC/ COMMERCIAL COUNSELOR THAT OPIC AGREEMENT EXPECTED TO BE RATIFIED BY FEDERAL ASSEMBLY MAY 17. HE INTENDS DISCUSS JOINT VENTURE INVESTMENT WITH OPIC IN WASHINGTON DURING WEEK OF MAY 21 INCLUDING NEW JOINT VENTURE LAW WHICH IS ESSENTIALLY CODIFICATION OF PREVIOUS ACTS CONTAINED IN SIX DIFFERENT OFFICIAL GAZETTES WITH SOME CHANGES ADDED.

2. KEY ARTICLES IN LAW:

A. ARTICLE 3 REITERATES PROHIBITION ON JOINT VENTURES IN BANKING, INSURANCE, INTERNAL TRANSPORTATION, COMMERCE OR COMMUNAL SERVICES BUT PROVIDES THAT FEDERAL EXECUTIVE COUNCIL CAN "EXCEPTIONALLY" AND IN "SPECIFIED CASES" PERMIT JOINT INVESTMENTS IN THESE FIELDS IF THIS WILL CONTRIBUTE TO FASTER DEVELOPMENT.

B. ARTICLE 4 CONCERNS SIZE OF RESOURCE INPUT BY FOREIGN PARTNER AND STATES THAT FOREIGN PARTNER'S INPUT "CANNOT BE GREATER THAN" INPUT BY DOMESTIC PARTNER. THIS ARTICLE ALSO UNCLASSIFIED

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PROVIDES FOR GREATER THAN 50 PERCENT FOREIGN INVOLVEMENT IF
" SPECIAL INTEREST" EXISTS AND IF SUCH INTEREST IS MADE CONCRETE
BY SPECIAL ACT OF FEDERAL ASSEMBLY.

C. ARTICLE 11 STATES THAT JOINT VENTURE CONTRACT CANNOT BE
TERMINATED BEFORE EXPIRATION DATE SET IN CONTRACT UNLESS VENTURE
SHOWS LOSS OVER TWO CONSECUTIVE YEARS, OR UNLESS BUSINESS RESULTS
ARE " SUBSTANTIALLY BELOW" ENVISAGED RESULTS, OR IF ONE PARTNER
FAILS TO SETTLE OBLIGATIONS UNDERTAKEN IN CONTRACT.

3. NEW FEATURE IS CONTAINED IN ARTICLE 12 (F) WHICH REQUIRES
MINIMUM CONTRIBUTION BY FOREIGN PARTNER TO BE NOT LESS THAN 1.5
MILLION NEW DINARS; ALTHOUGH FEDERAL SECRETARY OF ECONOMY MAY
WAIVE THIS REQUIREMENT IN SPECIFIC CASES.

4. ARTICLE 20 REITERATES THAT BASIC LAW ON JOINT VENTURES WILL
NOT BE MODIFIED TO DETRIMENT OF EXISTING JOINT VENTURES. THIS
PROVISION DOES NOT REPEAT NOT APPLY TO TAXES PAYABLE BY JOINT
VENTURE TO LOCAL GOVERNMENT AUTHORITIES; E. G., TAXES MAY BE IN-
CREASED WITHOUT VIOLATING PROHIBITION AGAINST MODIFYING JOINT
VENTURE LAW TO DETRIMENT OF EXISTING JOINT VENTURES.

5. LAW DOES NOT REPEAT NOT MODIFY PROVISIONS RE FOREIGN EX-
CHANGE AVAILABILITY FOR CAPITAL REPATRIATION OR PROFIT TRANSFER,
AND NEITHER DOES IT CONTAIN PROVISIONS FOR TAX INCENTIVES,
ALTHOUGH WE UNDERSTAND THAT CROATIA, BOSNIA/ HERZEGOVINA AND
MACEDONIA HAVE MADE PROVISION FOR SUCH INCENTIVES AND THAT
MONTENEGRO MAY DO SO SHORTLY.

6. JELIC IS FINANCE SECRETARIAT'S AUTHORITY ON JOINT VENTURE LAW
AND SHOULD BE ABLE TO PROVIDE COMPLETE ANALYSIS OF IMPORT OF LAW
DURING TALKS WITH OPIC, INCLUDING POSSIBILITY FOR FUTURE LIBERALIZA-
TION OF FOREIGN EXCHANGE AVAILABILITY FOR CAPITAL REPATRIATION
AND PROFIT TRANSFER.

7. INFORMAL TRANSLATION BEING POUCHED.
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NMAFVVZCZ

*** Current Handling Restrictions *** n/a

*** Current Classification *** UNCLASSIFIED

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 01 MAY 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: BELGRADE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730533/aaaahinc.tel
Line Count: 100
Locator: TEXT ON-LINE
Office: ACTION OPI
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 73 BELGRADE 2018
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 27 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27-Sep-2001 by kuehnb0>; APPROVED <01-Feb-2002 by cunninfx>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> mcm 971113
Subject: NEW JOINT VENTURE LAW
TAGS: EFIN, YO
To: OPIC
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005